

AMENDED IN ASSEMBLY AUGUST 31, 2000

AMENDED IN ASSEMBLY AUGUST 30, 2000

AMENDED IN ASSEMBLY AUGUST 29, 2000

SENATE BILL

No. 1805

Introduced by Senator Escutia

February 23, 2000

An act to amend Section 734.1 of, and to add Section 12938 to, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1805, as amended, Escutia. Market conduct examinations.

Existing law provides for the licensing and regulations of insurers by the Insurance Commissioner. Existing law provides that the commissioner has the power to examine and investigate into the affairs of every person engaged in the business of insurance in this state in order to determine whether the person has been or is engaged in any unfair method of competition or in any prohibited unfair or deceptive act or practice, generally known as a market conduct examination. Existing law also provides that the commissioner has the power to examine the business and affairs of an insurer relative to its financial condition and ability to fulfill its obligations, and compliance with all laws applicable to its insurance transactions. Existing law provides that certain information obtained or produced by the department with respect to insurer examinations and

investigations is confidential and not subject to disclosure, except as specified.

This bill would require the commissioner, ~~on the Department's website, to list specified information relating to an examination that is terminated or suspended prior to being finalized and that includes an examination of claims practices.~~ The bill would require the commissioner, if he or she suspends or terminates ~~such~~ an examination *that includes an examination of claims practices*, to send a copy of the complete file to the State Bureau of Audits, and would require the State Auditor to audit the file and make a determination on the propriety of the termination or suspension.

This bill, notwithstanding any other provision of law, would require the commissioner to make information concerning the resolution of ~~market conduct examinations~~ *every adopted report of an examination* that ~~pertain~~ *pertains* to unfair or deceptive business practices, as defined, available for public inspection and on the department's website, *as specified*. This bill would require the information to be maintained in a current up-to-date condition. This bill would require all identifying and privileged information regarding individual policyholders to be redacted from the information or reports available to the public. The bill would permit an insurer to furnish comments regarding an adopted report of an examination, as specified, for ~~posting~~ *publishing* on the website.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 734.1 of the Insurance Code is
2 amended to read:
3 734.1. (a) No later than 60 days following completion
4 of the examination, the examiner in charge shall file with
5 the department a verified written report of the
6 examination under oath. Upon receipt of the verified
7 report, the department shall transmit the report to the
8 company examined, together with a notice that the
9 company has 30 days to make a written submission or

1 rebuttal with respect to any matters contained in the
2 examination report.

3 (b) Within 30 days of the end of the period allowed for
4 the receipt of written submissions or rebuttals, the
5 commissioner shall fully consider and review the report,
6 together with any written submissions or rebuttals and
7 any relevant portions of the examiner's workpapers, and
8 shall either adopt the report as filed or with modifications
9 or corrections, or reject the report with directions to the
10 examiners to reopen the examination for purposes of
11 obtaining additional data, documentation, or
12 information, and refiling pursuant to subdivision (a).

13 (c) (1) Nothing contained in this article shall be
14 construed to limit the commissioner's authority to
15 terminate or suspend any examination in order to pursue
16 other legal or regulatory action pursuant to the insurance
17 laws of this state.

18 ~~(2) (A) The commissioner on the department's~~
19 ~~website shall maintain a listing of all examinations~~
20 ~~terminated or suspended prior to being finalized that~~
21 ~~include an examination of claims practices and all of the~~
22 ~~following information regarding each of those~~
23 ~~examinations:~~

24 ~~(i) The name of the company being examined.~~

25 ~~(ii) The commencement and termination or~~
26 ~~suspension date of the examination.~~

27 ~~(B) If the commissioner terminates or suspends an~~
28 ~~examination subject to subparagraph (A), the~~
29 ~~commissioner shall send a copy of the complete file of the~~
30 ~~examination to the State Bureau of Audits, and the State~~
31 ~~Auditor shall audit the file to determine the propriety of~~
32 ~~the termination or suspension.~~

33 ~~(C) The commissioner shall maintain the information~~
34 ~~required by subparagraph (A) on the department~~
35 ~~website for five years for each examination from the~~
36 ~~commencement date of the examination.~~

37 *(2) If the commissioner terminates or suspends an*
38 *examination that includes an examination of claims*
39 *practices, the commissioner shall within 10 days of the*
40 *termination or suspension transmit a copy of the*

1 *complete examination file to the State Bureau of Audits.*
2 *The State Auditor shall audit the file pursuant to Section*
3 *10527 of the Government Code to determine the*
4 *propriety of the termination or suspension.*

5 SEC. 2. Section 12938 is added to the Insurance Code,
6 to read:

7 12938. Notwithstanding any other provision of law,
8 the department shall make available for public inspection
9 and publish on its website all of the information described
10 in subdivisions (a) and (b). This information shall be
11 maintained in a current, up-to-date condition. All
12 identifying and privileged information regarding
13 individual policyholders shall be redacted from
14 documents available for public inspection and on the
15 website.

16 (a) All fully executed stipulations, orders, decisions,
17 settlements, or other forms of agreement resolving
18 market conduct examinations, whether the examinations
19 were finalized, terminated, or suspended, that pertain to
20 unfair or deceptive practices in the business of insurance
21 as defined in Section 790.03.

22 (b) (1) Every *adopted* report of an examination of
23 unfair or deceptive practices in the business of insurance
24 as defined in Section 790.03 that is adopted as filed, or as
25 modified or corrected, by the commissioner pursuant to
26 Section 734.1. ~~The report shall not be posted on the~~
27 ~~website for a period of 30 days after its adoption by the~~
28 ~~commissioner. During that 30-day period, the insurer~~
29 ~~subject to the examination may submit to the~~
30 ~~commissioner comments relating to the report in a form~~
31 ~~and length as provided by regulation. The commissioner,~~
32 ~~if he or she receives the report within the 30-day period,~~
33 ~~shall post the comments on the website following the~~
34 ~~report.~~

35 (2) *The commissioner upon adopting the report shall*
36 *by certified United States mail transmit a copy of the*
37 *report to the examined insurer's designated agent for*
38 *service of process. Within 10 business days after the*
39 *transmittal, the examined insurer may submit comments*
40 *to the commissioner relating to the adopted report. The*

1 *comments shall be in a form and length as provided by*
2 *regulation.*

3 *(3) Ten business days after the transmittal the*
4 *commissioner shall publish on the department's website*
5 *the adopted report and any comments submitted by the*
6 *examined insurer unless a court of competent jurisdiction*
7 *has stayed the publication of the report.*

8 *(c) This section may not be construed to require the*
9 *disclosure of company workpapers or other company*
10 *documents discovered during the course of an*
11 *examination or any preliminary report of the*
12 *examination, except as otherwise permitted by law.*

